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WARDELL STEPHEN CURRY II

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ATHALONZ, LLC

Plaintiff,

v.

UNDER ARMOUR, INC.

Defendant.

Case No. 3:23-mc-80324-LJC

**NON-PARTY WARDELL STEPHEN  
CURRY II'S ADMINISTRATIVE  
MOTION TO STRIKE PLAINTIFF'S  
REPLY IN SUPPORT OF MOTION FOR  
DE NOVO DETERMINATION**

Pursuant to Local Rule 7-11, Non-party Wardwell Stephen Curry II (“Mr. Curry”) hereby moves the Court to strike Plaintiff’s Reply in Support of its Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge. (Dkt. 27).

Plaintiff’s Reply is procedurally improper because it is not permitted by the Court’s Local Rules, or Fed. R. Civ. P. 72. “Neither FRCP 72(b) nor Civ LR 72–3... authorizes the filing of a reply brief in support of objections to a magistrate judge’s recommendation and report regarding a dispositive motion.” *Cannon Partners, Ltd. v. Cape Cod Biolab Corp.*, 225 F.R.D. 247, 250 (N.D. Cal. 2003); *see also In re MTC Elec. Techs. Shareholder Litig. v. MTC Elec. Techs. Co.*, 75 F. Supp. 2d 276, 281 n. 4 (E.D.N.Y. 1999) (“Rule 72(b) authorizes objections to a magistrate judge’s report and recommendation then responses ... but not replies”); *Carrington Capital Mgmt. LLC v. Spring Inv. Servs.*, No. 3:06-cv-1665, 2008 BL 370377 (D. Conn. May 2, 2008) (Rule 72 “does not expressly grant the right to file a reply in opposition to a magistrate’s recommended ruling.”); *Lee v. City of Topeka*, 2012 WL 4482122 (D. Kan. Sept. 29, 2011) (same); *Mordukhaev v. Daus*, 2010 WL 3792191, at \*1 n.1 (S.D.N.Y. Sept. 2010) (same); *Ventana Med. Sys., Inc. v. St. Paul Fire & Marine Ins. Co.*, 709 F. Supp. 2d (D. Ariz. 2010) (same).

Because the Rules do not allow for a Reply, the Court should strike Athalonz’s unauthorized Reply brief. *See Star Envirotech, Inc. v. Redline Detection LLC*, No. EDCV 12-01861-JGB (KKx), 2016 U.S. Dist. LEXIS 185139, at \*4 (C.D. Cal. Mar. 4, 2016) (striking unauthorized reply brief filed by a party objecting to a magistrate judge’s recommendation pursuant to Rule 72(b)); *Massey v. Computershare Ltd.*, Civil Action No. 21-cv-0601-WJM-SBP, 2024 U.S. Dist. LEXIS 38535, at \*17 (D. Colo. Mar. 5, 2024) (same); *James v. Shinn*, No. CV-21-00091-TUC-JCH, 2023 U.S. Dist. LEXIS 173784, at \*5 (D. Ariz. Sep. 27, 2023) (same).

For the foregoing reasons, Mr. Curry respectfully requests that the Court strike Plaintiff’s Reply in Support of its Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge. (Dkt. 27).

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1 Dated: April 22, 2024

VENABLE LLP

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